

to ensure that we hold a fair hearing. We were able to work cooperatively to send a bipartisan questionnaire to Judge Sotomayor within one day of her designation by President Obama. Last week the committee received her response to that questionnaire. We also received other background information from the administration, as well as the official Presidential nomination.

This is a reasonable schedule. It will be the middle of next month. It is in line with past experience. It will allow several more weeks for committee members to prepare for the hearing—several more weeks than if I had held the hearing this month—and there is no reason to unduly delay the consideration of this well-qualified nominee. Judge Sotomayor deserves the opportunity to go before the public and speak of her record, especially as some have mischaracterized and misstated it. The only place she can speak of her record is in a hearing.

It is also a responsible schedule that serves the many interests involved. Of course, first and foremost is the American people's stake in a process that is fair and thorough but not needlessly prolonged. It serves the purpose of the institution of the Senate, where we need sufficient time to prepare for a confirmation hearing. We have a full legislative plate of additional pressing business in the weeks and months ahead that is of great importance to our constituents and to the Nation. Then, of course, it serves the need of the third branch of government, which depends on the other branches of government to fill court vacancies in our independent judiciary. It serves the needs of the President who has nominated Judge Sotomayor. And lest we forget, it serves the needs of the nominee herself, who as a judge will only be able to speak publicly about her record when the hearings are convened.

This is an extremely important obligation that we as Members of the Senate take on. There are only 101 people who get a direct say in the nomination and confirmation of a Justice of the Supreme Court. First and foremost, of course, the President of the United States—and in this case, President Obama consulted with numerous Senators, Republicans and Democrats alike—prior to making his nomination. Then once the nomination is made, 100 Members of the Senate have to stand in for 300 million Americans in deciding who will get that lifetime appointment. I voted on every single current member of the Supreme Court, as well as some in the past, and I know how important an obligation that is.

The Justice who takes Justice Souter's place for the court session that convenes October 5 also needs as much time as possible to hire law clerks, to set up an office, to find a place to live here in Washington, and to take part with the rest of the Court in the preparatory work that precedes the formal start of the session on the first Monday in October.

I mention that because I have put together a schedule that tracks the process the Senate followed, by bipartisan agreement, in considering President Bush's nomination of John Roberts to the Supreme Court in 2005. At that time, I served as the ranking minority member of the Judiciary Committee. I met with our Republican chairman, and we worked out a schedule which provided for Chief Justice Roberts' hearing 48 days after he was named by President Bush.

I might say that the agreement on time was reached even before the committee received the answers to the bipartisan questionnaire. And while Justice Roberts—then Judge Roberts—had not written as many opinions as Judge Sotomayor, he had been in a political policy position in Republican administrations for years before, and there were 75,000 pages of documents from that time. In fact, some arrived almost on the eve of the hearing itself. And, of course, that nomination replaced Justice O'Connor, who was recognized as a pivotal vote on the Supreme Court.

If something that significant required 48 days, and Republicans and Democrats agreed that was sufficient to prepare for that hearing, in accordance with our agreement on the initial schedule, certainly that is a precedent that says we have more than adequate time to prepare for the confirmation hearing for Judge Sotomayor.

My initial proposal to Senator SESSIONS was that we begin the hearing on July 7, following the Senate's return from the Fourth of July recess. I have deferred the start date to July 13 in an effort to accommodate our Republican members. With bipartisan cooperation, we should still be able to complete Judiciary Committee consideration of the nomination during the last week in July, and allow the Senate to consider the nomination during the first week in August, before the Senate recesses on August 7.

In selecting the date, I am trying to be fair to all concerned. I want to be fair to the nominee, allowing her the earliest possible opportunity to respond to attacks made about her character. It is not fair for critics to be calling her racist—one even equating her with the head of the Ku Klux Klan, an outrageous comment, and both Republicans and Democrats have said it was outrageous—without allowing her the opportunity to speak to it, and she can't speak to it until she is in the hearing.

I also want to conclude the process without unnecessary delay so that she might participate fully in the deliberations of the Supreme Court selecting cases and preparing for its new term. In his May 1 letter to President Obama, Justice Souter announced his resignation effective “when the Supreme Court rises for the summer recess this year,” which will happen later this month. Thereafter, the Supreme Court prepares for the next term. To participate fully in the upcoming delibera-

tions, it would be helpful for his successor to be confirmed and able to take part in the selection of cases as well in preparing for their argument.

I am merely following the timeline we followed with the Roberts nomination. The timeline for the Alito nomination provides no reason to delay the hearing for Judge Sotomayor. It presented a very different situation in many ways. For one thing, that nomination was made with no consultation by President Bush. By contrast, President Obama devoted several weeks to consultation with both Republicans and Democrats before making his selection. The Alito nomination was President Bush's third nomination to succeed Justice O'Connor. It followed 4 months of intense effort by the Judiciary Committee, beginning with Justice O'Connor's announcement on July 1. And finally, the Christmas holidays helped account for the timing of those hearings. I do not believe Bastille Day requires us to delay the confirmation hearings for the first Hispanic nominated to the Supreme Court for an additional 6 weeks.

Some may recall that Justice O'Connor's resignation in 2005 was contingent on the “nomination and confirmation of [her] successor.” She continued to serve on the Supreme Court when its new term began in October 2005, and until Justice Alito was confirmed at the end of January 2006. In addition, proceedings to fill that vacancy involved a more extended process, not only because Justice O'Connor represented a pivotal vote on the Supreme Court on so many issues, but because President Bush first nominated John Roberts and then withdrew that nomination, then nominated Harriet Miers and withdrew her nomination when Republicans and conservatives revolted, and finally nominated Samuel Alito. The nomination of Judge Alito was the third Supreme Court nomination that the Senate was asked to consider, and followed the withdrawal of the Miers nomination by only 3 days.

Given that sequence of events, and the then upcoming Christmas holiday, that hearing on the late October nomination of Samuel Alito was appropriately scheduled by the Republican Chairman to begin after the New Year. In addition, Judge Alito did not return his questionnaire until November 30. His hearing was held 40 days after his questionnaire was returned, which includes the Christmas and the holiday period. That is substantially equivalent to the 39 days between the time receipt of Judge Sotomayor's questionnaire response and her hearing.

Of course, in the case of the current nomination, Judge Sotomayor had been reported to be a leading candidate for the vacancy as soon as it arose on May 1, and her record was being studied from at least that time forward. The right wing groups attacking her were doing so long before she was named by the President on May 26, and those attacks have intensified since her designation.